

March 5, 2009

Russell Eagle Bear
Rosebud Sioux Tribe
Tribal Historic Preservation Office
PO Box 809
Rosebud, South Dakota 57570

Dear Mr. Eagle Bear:

Thank you for your letter to Secretary Pirner regarding Powertech USA, Incorporated's uranium exploration and development activities in Fall River and Custer counties. Secretary Pirner asked me to respond to your letter. We appreciate the Tribe's concerns, many of which we share. I would like to take this opportunity to clarify a few issues discussed in your letter.

State law requires the Board of Minerals and Environment to notify the State Archeologist and Department of Game, Fish and Parks regarding issues involving archaeological, cultural, and wildlife resources related to permits issued under the board's authority. Again, as required by law, the board is required to include any restrictions provided by the State Archeologist and GF&P in the terms and conditions of any permit approved.

You wrote you were concerned the recommendations of Assistant State Archaeologist, Mr. Mike Fosha, were ignored when the Board of Minerals and Environment recently approved a uranium exploration permit for Powertech. That is not the case. I have enclosed the letter from Mr. Fosha outlining his recommendations regarding archaeological issues related to the Powertech exploration permit application. I have also enclosed a copy of the conditions approved by the Board which are part of Powertech's exploration permit (Powertech (USA) Inc. EXNI-409 Permit Conditions). The *Archaeological or Cultural Resources* section is on page four of the conditions.

The last paragraph of Mr. Fosha's letter states Powertech should temporarily halt operation should the company find evidence of past human use of any project area and notify his office. This recommendation has been fully incorporated as condition #1 in the Archaeological and Cultural Resources section. However, the Board made the recommendation more stringent by requiring Powertech to temporarily halt operations if any evidence is found.

Mr. Fosha's letter also recommends a cultural resource survey be conducted for each exploration site and a report submitted to his office for review. This recommendation has been fully incorporated as condition #2 in the Archaeological or Cultural Resources section. However, the Board added a requirement that Powertech must also develop a mitigation plan for any cultural resources identified in the survey to be reviewed and approved by Mr. Fosha's office.

Finally, Mr. Fosha wrote that no further work is necessary at seven exploration sites, but recommended additional archaeological investigation at five different sites to determine the sites eligibility for nomination to the National Register of Historic Places. This recommendation was incorporated into condition #3 under the Archaeological and Cultural Resources section. Drilling cannot proceed at these five sites until Mr. Fosha's office has cleared the sites.

As you can see from the additional conditions the Board included with the approved permit, all of Mr. Fosha's recommendations were included in the permit as required by law.

The same process was followed by the board regarding potential disturbance or impacts to bald eagle and redbill hawk nesting areas. I have enclosed a letter from Stan Michals with the Department of Game, Fish and Parks providing his department's recommendations to the board regarding protection of the bald eagle and redbill hawk nesting areas. The board included Mr. Michaels' recommendations on page 4 of the conditions in the *Wildlife Habitat* section. In fact, the board added a condition that required Powertech to notify Mr. Michals of all raptor nests identified in the project area to allow his department to evaluate the potential impacts to those as well.

With respect to your concerns over potential impacts to water resources from exploratory drilling, reclamation bonding and enforcement, again, state law addresses those issues. All of these issues are addressed in the board's conditions placed in the permit. Specifically, the permit requires Powertech to restore all affected land and plug all thirty drill holes in accordance with state plugging requirements. To make sure those activities are carried out, Powertech is required to post a bond of \$78,600.

The department has also taken the additional step of making sure state inspectors are onsite when Powertech is reclaiming and plugging test holes to ensure all permit requirements are being met.

Finally you expressed concern about the environmental impacts of uranium development in general, including impacts to water resources, impacts from radiation, habitat disturbance, erosion control, safety hazards, waste disposal, and others. All these issues are also of concern to the department and must be adequately addressed by Powertech in its state permit application for its proposed uranium in situ leach mine. While we have not yet received the application, once submitted it will be subject to a rigorous analysis by the department and subsequently to a public hearing before the board.

Again, thank you for your letter and allowing me the opportunity to clarify these issues.

Sincerely,

/S\

Mike Cepak, Engineering Director
Minerals and Mining Program

Enclosures: Mike Fosha, Assistant State Archeologist, October 15, 2008 letter
Powertech (USA) Inc. EXNI-409 Permit Conditions
Stan Michals, Game, Fish and Parks, October 17, 2008 letter